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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,389	06/30/2006	Bard J. Geesaman	E2023-7028US	8127
78849	7590	11/26/2008		
LOWRIE, LANDO & ANASTASI, LLP			EXAMINER	
E2023			BABIC, CHRISTOPHER M	
One Main Street			ART UNIT	PAPER NUMBER
Suite 1100				1637
Cambridge, MA 02142				
			NOTIFICATION DATE	DELIVERY MODE
			11/26/2008	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@ll-a.com  
gengelson@ll-a.com

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/562,389	GEESAMAN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	CHRISTOPHER M. BABIC	1637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 15 August 2008.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 110,111 and 113-121 is/are pending in the application.  
 4a) Of the above claim(s) 108,109,112 and 122-127 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 110,111 and 113-121 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 27 December 2005 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date <u>4/18/06</u> .	6) <input type="checkbox"/> Other: _____ .

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election without traverse of group II, claims 110-121, as well as SIRT1 nucleic acid in the reply filed on August 15, 2008 is acknowledged. Thus, the restriction requirement is still deemed proper and hereby made FINAL. As such, claim(s) 108, 109, 112, and 122-127 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention and species.

### ***Information Disclosure Statement***

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### ***Specification***

The disclosure is objected to because pg. 13 contains an embedded hyperlink and/or other form of browser-executable code. Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01.

***Claim Rejections - 35 USC § 112 - Indefiniteness***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claims 110, 111, and 113-121 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

(a) Claim 110 recites the limitations "the subject" in step (b) (i.e. step (a) recites "the mammalian subject") and "the phenotypic trait" and "the database" in step (c). There is insufficient antecedent basis for these limitations in the claim.

With regard to the phrase "the information of the parameter" recited in step (c), it is unclear which information parameter, i.e. SIRT1 parameter information or AD-related parameter information, the phrase references.

(b) Regarding claim 14, the phrase "e.g." renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

(c) Claims 116-118 recite the limitation "the reference subject" in line 1. There is insufficient antecedent basis for this limitation in the claim.

***Claim Interpretation***

Prior to the application of prior art, the scope and content of the claim invention must be analyzed. As such, Applicant is notified of the broad nature of the claimed invention. For example, Applicant is reminded that absent a specific, limiting definition of the term "evaluating" within the specification, the term must be given its broadest reasonable interpretation during examination. Limitations or preferred embodiments from the specification may not be imported into the claim if they are not part of the claim itself (see MPEP 2111.01). Similar reasoning applies to the claimed parameters.

Furthermore, due to the significant indefinite issues with the claim language (see section 112,2nd above), some aspects of the claimed invention will be considered exemplary and not necessarily required.

For the application of prior art, the claimed invention will be considered a method comprising: (a) evaluating a parameter of a SIRT1 molecule from a mammalian subject; (b) evaluating an Alzheimer's Disease (AD)-related parameter of the subject wherein the AD-related parameter is other than a parameter of a SIRT1 molecule; and (c) recording information about the SIRT1 parameter and information about the AD-related parameter, wherein information can be for example a phenotypic trait, and wherein information can be recorded in a database.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 110, 111, and 113-121 are rejected under 35 U.S.C. 102(b) as being anticipated by Myers et al. ("Susceptibility locus for Alzheimer's disease on chromosome 10." *Science*. 2000 Dec 22;290(5500):2304-5).**

With regard to claim s 110, 111, 113, and 121, Myers teaches a genome wide screen of individuals with late-onset Alzheimer's Disease (abstract; fig. 1, for example). Specifically, Myers teaches a method comprising: (a) evaluating a parameter of a SIRT1 molecule from a mammalian subject (*fig. 1, multi point linkage analysis including a loci of chromosome 10 that includes the SIRT1 gene, i.e. information about SIRT1 nucleotides, disease susceptibility allele, for example*); (b) evaluating an Alzheimer's Disease (AD)-related parameter of the subject wherein the AD-related parameter is other than a parameter of a SIRT1 molecule (*pg. 2304, col. 2, teaches the diagnosis of definite or probable AD which inherently includes evaluation of AD related parameters of other than SIRT1 parameter; for example, clearly the ages of the individuals were evaluated as they are taught to be greater than or equal to 65*); and (c) recording information about the SIRT1 parameter and information about the AD-related parameter (*fig. 1, linkage analysis of the individuals was recorded in chart or plot form*).

With regard to claim 114, Myers teaches two stages of testing, either of which can be considered "reference information" (fig. 1, for example).

With regard to claims 115-120, each limitation refers back to an optional limitation within claim 114. Thus, Myers anticipates the claims.

***Conclusion***

**No claims are allowed.**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher M. Babic whose telephone number is 571-272-8507. The examiner can normally be reached on Monday-Friday 7:00AM to 4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Benzion can be reached on 571-272-0782. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1637

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher M. Babic/  
Patent Examiner  
Art Unit 1637  
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